



SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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DEC 29 2006

In re Application of
SILVERBROOK
Application No. 10/760,198
Filed: January 21, 2004
Attorney Docket No. RRA05US

OFFICE OF PETITIONS
DECISION
ON PETITION

This is a decision on the petition under 1.137(a) filed June 7, 2006, to revive the above-identified application, which is being treated as a request under 37 CFR 1.181 (no fee) for withdrawal of the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is vacated, and this application restored to pending status.

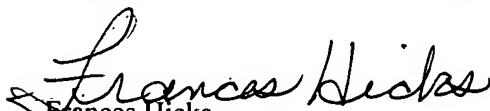
The application purportedly became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 4, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed April 14, 2006.

Petitioner states he did not receive the non-final Office action mailed August 4, 2005. The record supports this statement. The record includes a "Mail returned to USPTO as undelivered" entry of August 18, 2005 having an envelope stamped "SHORT PAID." This entry demonstrates the postage on the Office action was deficient, and the letter was returned to the Office. Based on the record and petitioner's statements, there is sufficient evidence to demonstrate to the satisfaction of the Director that the applicant did not receive the Office action mailed August 4, 2005 and to vacate the holding of abandonment.

The petition fee of \$500 and the extension of time fee are unnecessary. An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Petitioner may request a refund of these fees by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 2861 for consideration of the response to the non-final Office Action accompanying the petition on June 7, 2006.


Frances Hicks
Lead Paralegal
Office of Petitions